

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TODD DANNHAUSER, and
TD Co., L.P.,

Plaintiffs,

v.

TSG REPORTING, INC.,

Defendant.

TSG REPORTING, INC.,

Counterclaim-Plaintiff,

v.

TODD DANNHAUSER and
TD CO., L.P.,

Counterclaim-Defendants.
----- X

Case No. 16-CV-747(CM)

**AFFIDAVIT OF PRESTON
J. POSTLETHWAITE IN
SUPPORT OF
PLAINTIFFS'
OPPOSITION TO TSG'S
MOTION FOR AN ORDER
OF PRECLUSION**

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

PRESTON J. POSTLETHWAITE, being duly sworn, deposes and says:

1. I am an attorney at Brewer, Attorneys and Counselors, counsel for Plaintiffs Todd Dannhauser and TD Co L.P. (collectively, "Dannhauser") in this action.

2. I am fully familiar with the documents referenced in this Affidavit in Support of Plaintiffs' Opposition to TSG's Motion for an Order of Preclusion, and the matters discussed herein.

3. Attached as Exhibit 1 is a true and correct copy of the Marketing Agreement, entered into between TSG and TD Co on or about January 13, 2005, and the amendments thereto dated February 12, 2012 and September 1, 2014. (This document has been designated as confidential and has been filed under seal pursuant to the Court's August 1, 2016 Confidential Stipulation and Order (the "Confidentiality Order").

4. Attached as Exhibit 2 is a true and correct copy of the Noncompetition Agreement entered into between TSG and Mr. Dannhauser, dated as of November 15, 2010, and as amended on September 15, 2012. (This document has been designated as confidential and has been filed under seal pursuant to the Court's Confidentiality Order.)

5. Attached as Exhibit 3 is a true and correct copy of the Amended Complaint filed on April 19, 2016.

6. Attached as Exhibit 4 is a true and correct copy of Plaintiffs' Initial Disclosures, dated May 6, 2016.

7. Attached as Exhibit 5 is a true and correct copy of an excerpt of Defendant's Response to Plaintiffs' First Set of Interrogatories, dated April 1, 2016.

8. During discovery, Plaintiffs' requested that TSG provide information regarding the calculation of commissions due and payable to Plaintiffs (see Exhibit 5 at No. 13). Although TSG was obligated to reasonably respond to this interrogatory, TSG instead chose to object on the ground that other methods of discovery were more appropriate.

9. Attached as Exhibit 6 is a true and correct copy of a letter I sent to Jesenia Ruiz de la Torre ("Ms. Ruiz"), of Zukerman Gore, on November 3, 2016 for the purpose of, among other things, requesting that TSG supplement its response to Interrogatory No. 13.

10. Attached as Exhibit 7 is a true and correct copy of a cover email and excel spreadsheet (the "Settlement Spreadsheet") from me to Defendant's counsel Ed Powers, dated August 26, 2016. Included in the Settlement Spreadsheet are commissions that Dannhauser believes to be miscalculated.

11. Attached as Exhibit 8 is a true and correct copy of a November 11, 2015 letter sent by TSG's counsel, Joseph Maloney of Zukerman Gore to William A. Brewer, counsel for Dannhauser, stating that TSG intends to fully enforce Dannhauser's noncompetition, nondisclosure and noninterference agreements with TSG.

12. Attached as Exhibit 9 is a true and correct copy of the minute entry issued by the Court on November 4, 2016.

Dated: December 1, 2016



Preston J. Postlethwaite
Associate
Brewer, Attorneys & Counselors

Sworn to before me this
1st day of December, 2016



NOTARY PUBLIC

CHRISTELLA XU
NOTARY PUBLIC-STATE OF NEW YORK
NO. 01XU6252795
QUALIFIED IN QUEENS COUNTY
MY COMMISSION EXPIRES 01-12-2020